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PTO/SB/05 (08-00) (modified)

Approved for use through 9/30/2001, OMB 0651-0032

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

**NEW UTILITY  
PATENT APPLICATION  
TRANSMITTAL**

(only for new nonprovisional applications under  
37 CFR 1.53(b))

Attorney Docket Number	16010-07269
First Named Inventor	Joseph Vaughn Rustad
Title	System & Method of Active Latency Detection For Network Applications
Express Mail Label No.	EV255778360US

<b>APPLICATION ELEMENTS</b>		<b>ACCOMPANYING APPLICATION PARTS</b>	
1. <input checked="" type="checkbox"/> Fee Transmittal Form (in duplicate)		7. <input checked="" type="checkbox"/> Assignment Papers (cover sheet & document(s))	
2. <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		8. <input type="checkbox"/> Certified Copy of Priority Document(s) ( <i>if foreign priority is claimed</i> )	
3. <input checked="" type="checkbox"/> Specification <span style="float: right;">Total Pages <b>36</b></span>	( <i>preferred arrangement set forth below</i> )	9. <input type="checkbox"/> Power of Attorney or Authorization of Agent	
	<input type="checkbox"/> Descriptive Title of the Invention <input type="checkbox"/> Cross Reference(s) to Related Case(s) <input type="checkbox"/> Statement Regarding Fed sponsored R & D <input type="checkbox"/> Background of the Invention <input type="checkbox"/> Brief Summary of the Invention <input type="checkbox"/> Brief Description of the Drawing(s) <input type="checkbox"/> Detailed Description <input type="checkbox"/> Claim or Claims <input type="checkbox"/> Abstract of the Disclosure	10. <input type="checkbox"/> 37 CFR 3.73(b) Statement	
4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) <span style="float: right;">Total Sheets <b>14</b></span>		11. <input type="checkbox"/> Preliminary Amendment	
5. Oath or Declaration	a. <input checked="" type="checkbox"/> New Declaration <span style="float: right;">Total Pages <b>3</b></span>	12. <input type="checkbox"/> Information Disclosure Statement & PTO-1449 <input type="checkbox"/> Copies of IDS Citation(s)	
	b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) <i>(for continuation/divisional with Box 18 completed)</i>	13. <input checked="" type="checkbox"/> Request and Certification under 35 U.S.C. 122 <i>(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent</i>	
6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76		14. <input checked="" type="checkbox"/> Return Postcard	
		15. <input type="checkbox"/>	
		16. <input type="checkbox"/>	
		17. <input type="checkbox"/>	

**ADDRESS TO:**

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

18. If a **CONTINUING APPLICATION**, check appropriate box and supply the requisite information below and in a preliminary amendment or in an Application Data Sheet under 37 CFR 1.76:

Continuation  Divisional  Continuation-in-part (CIP) of prior application No: \_\_\_\_\_

Prior application information: Examiner: \_\_\_\_\_ Group/Art Unit: \_\_\_\_\_

For **CONTINUATION OR DIVISIONAL APPS** only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuing or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS**

**00758**

PATENT TRADEMARK OFFICE

Name (Print/Type)	Devin S. Morgan	Registration No. (Attorney/Agent)	45,562
Signature			Date July 24, 2003

A9000/00000/DC/9401.1

17354 U.S. PTO  
10/625943  
07/24/03

COPY

07/24/03  
PTO

PTO/SB/17 (10-02) (Modified)

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# FEE TRANSMITTAL for FY 2003

Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$ 1,036)

Complete if Known	
Application Number	Please assign
Filing Date	July 24, 2003
First Named Inventor	Joseph Vaughn Rustad
Examiner Name	Unknown
Art Unit	Unknown
Attorney Docket No.	16010-07269

**METHOD OF PAYMENT** (check all that apply)

Check  Credit Card  Money Order  Other  None  
 Deposit Account:

Deposit Account Number 19-2555

Deposit Account Name Fenwick &amp; West LLP

The Commissioner is authorized to: (check all that apply)

- Charge fee(s) indicated below  
 Charge any additional fee(s) required under 37 CFR 1.16 – 1.21 or credit any overpayments to the deposit account.<sup>†</sup>  
 Charge fee(s) indicated below, except for the filing fee to the deposit account.

A Duplicate Copy of this authorization is attached

**FEE CALCULATION** (continued)**3. ADDITIONAL FEES**

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1001 750	2001 375	Utility filing fee	750
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
<b>SUBTOTAL (1)</b>		(\$ 750)	
<b>2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE</b>			
Extra Claims	Fee from below	Fee Paid	
Total Claims 29 -20**= 9 X 18 = 162			
Independent Claims 4 -3**= 1 X 84 = 84			
Multiple Dependent			
<b>3. ADDITIONAL FEES</b>			
Large Entity	Small Entity	Fee Description	
Fee Code (\$)	Fee Code (\$)		
1202 18	2202 9	Claims in excess of 20	
1201 84	2201 42	Independent claims in excess of 3	
1203 280	2203 140	Multiple dependent claim, if not paid	
1204 84	2204 42	**Reissue independent claims over original patent	
1205 18	2205 9	**Reissue claims in excess of 20 and over original patent	
<b>SUBTOTAL (2)</b>		(\$ 246)	
*or number previously paid, if greater; For Reissues, see above			
*Reduced by Basic Filing Fee Paid			
<b>SUBTOTAL (3)</b>			
(\$ 40)			

**SUBMITTED BY**

Complete (if applicable)

Name (Print/Type)	Devin S. Morgan	Registration No. (Attorney/Agent)	45,562	Telephone (202) 261-0417
Signature		Date	7/24/03	

<sup>†</sup>Request for Extension of Time per 37 CFR 1.136(a)(3) made hereby

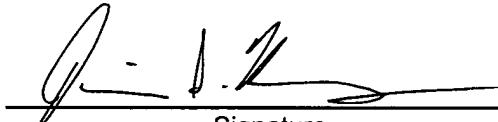
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<b>REQUEST AND CERTIFICATION UNDER 35 U.S.C. 122(b)(2)(B)(i)</b>	First Named Inventor	Joseph Vaughn Rustad
	Title	System & Method of Active Latency Detection for Network Applications
	Atty Docket Number	16010-07269

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

July 24, 2003

Date



Signature

Devin S. Morgan, Reg. No. 45,562

Typed or printed name/Registration Number

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(a). The information is used by the public to request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that request). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.